

SECOND REGULAR SESSION

HOUSE BILL NO. 1804

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HARDING, JOLLY, BOUCHER, LOWE, BRAY,
COPENHAVER, CURLS, WILSON (42), SANDERS BROOKS (Co-sponsors), CAMPBELL, BRITT,
WILLIAMS, HARLAN, JOHNSON (61), MERIDETH, JOHNSON (90), BLAND AND FRASER.

Read 1st time February 5, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3893L.04I

AN ACT

To repeal section 408.500, RSMo, and to enact in lieu thereof one new section relating to merchandising practices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 408.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 408.500, to read as follows:

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad

18 check or breach of contract shall not be considered as a fee or charge for purposes of this section.

19 4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the
20 office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee
21 is currently charging and the statement:

22

23 NOTICE:

24 This lender offers short-term loans. Please read and understand the terms of the loan
25 agreement before signing.

26 5. The lender shall provide the borrower with a notice in substantially the following form
27 set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature
28 of the borrower:

29 (1) This lender offers short-term loans. Please read and understand the terms of the loan
30 agreement before signing.

31 (2) You may cancel this loan without costs by returning the full principal balance to the
32 lender by the close of the lender's next full business day.

33 6. The lender shall renew the loan upon the borrower's written request and the payment
34 of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the
35 loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal
36 amount of the loan by ten percent of the original amount of the loan until such loan is paid in
37 full.

38 7. When making or negotiating loans, a licensee shall consider the financial ability of
39 the borrower to reasonably repay the loan in the time and manner specified in the loan contract.
40 All records shall be retained at least two years.

41 8. A licensee who ceases business pursuant to this section must notify the director to
42 request an examination of all records within ten business days prior to cessation. All records
43 must be retained at least two years.

44 9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply
45 with the provisions of this section, or any laws relating to consumer loans or commits any
46 criminal act may have its license suspended or revoked by the director of finance after a hearing
47 before the director on an order of the director to show cause why such order of suspension or
48 revocation should not be entered specifying the grounds therefor which shall be served on the
49 licensee at least ten days prior to the hearing.

50 10. Whenever it shall appear to the director that any lender licensed pursuant to this
51 section is failing, refusing or neglecting to make a good faith effort to comply with the provisions
52 of this section, or any laws relating to consumer loans, the director may issue an order to cease
53 and desist which order may be enforceable by a civil penalty of not more than one thousand

54 dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall
55 be assessed and collected by the director. In determining the amount of the penalty, the director
56 shall take into account the appropriateness of the penalty with respect to the gravity of the
57 violation, the history of previous violations, and such other matters as justice may require.

58 **11. In any advertisement or informational literature, including, but not limited to**
59 **radio commercials, television commercials, printed advertisements, and the Internet,**
60 **lenders licensed pursuant to this section shall disclose the maximum annual percentage**
61 **rates, including any fees or other payments made to the licensee, that the licensee is**
62 **currently charging and any interest, fees, and other payments due at the time of any loan**
63 **renewal.**

64 **12. Before entering into any deferred deposit loan with a consumer, lenders**
65 **licensed pursuant to this section shall deliver to the consumer a pamphlet prepared by the**
66 **licensee that contains:**

67 **(1) An explanation in plain language of all of the consumer's rights and**
68 **responsibilities in a deferred deposit loan;**

69 **(2) Information showing the phone number for the attorney general's consumer**
70 **fraud hotline which handles concerns and complaints by consumers; and**

71 **(3) Information notifying consumers that the director of finance's office can**
72 **provide information about whether a lender is licensed, whether complaints have been filed**
73 **with the director of finance, and the resolution of such complaints.**

74 **13. Any violation of this section is an unlawful merchandising practice pursuant**
75 **to section 407.020, RSMo.**